

H. R. 3231

1 VIOLATIONS

2 SEC. 102. (a) Section 11(b) of the Act (50 U.S.C. App.
3 2410(b)) is amended by inserting after paragraph (2) the fol-
4 lowing new paragraphs:

5 “(3) Any person who conspires or attempts to export
6 anything contrary to any provision of this Act or any regula-
7 tion, order, or license issued under this Act shall be subject to
8 the penalties set forth in subsection (a), except that in the
9 case of a violation of an export control imposed under section
10 5 of this Act, such person shall be subject to the penalties set
11 forth in paragraph (1) of this subsection.

12 “(4) Any person who possesses any goods or technol-
13 ogy—

14 “(A) with the intent to export such goods or tech-
15 nology in violation of an export control imposed under
16 section 5 or 6 of this Act or any regulation, order, or
17 license issued with respect to such control; or

18 “(B) knowing or having reason to believe that the
19 goods or technology would be so exported;

20 shall, in the case of a violation of an export control imposed
21 under section 5, be subject to the penalties set forth in para-
22 graph (1) of this subsection and shall, in the case of a viola-
23 tion of an export control imposed under section 6, be subject
24 to the penalties set forth in subsection (a).

1 “(5) Any person who takes any action with the intent to
2 evade the provisions of this Act or any regulation, order, or
3 license issued under this Act shall be subject to the penalties
4 set forth in subsection (a), except that in the case of an eva-
5 sion of a foreign policy or national security control, such
6 person shall be subject to the penalties set forth in paragraph
7 (1) of this subsection.”.

8 (b) Section 11(c) of the Act is amended by adding at the
9 end thereof the following new paragraph:

10 “(3) An exception to any order issued under this Act
11 which revokes the authority of a United States person to
12 export goods or technology may not be made unless the
13 Committee on Foreign Affairs of the House of Representa-
14 tives and the Committee on Banking, Housing, and Urban
15 Affairs of the Senate are first consulted concerning the ex-
16 ception.”.

17 (c) Section 11(e) of the Act is amended by inserting “or
18 any property interest or proceeds forfeited pursuant to sub-
19 section (f)” after “subsection (c)”.

20 (d) Section 11 of the Act is amended—

21 (1) by redesignating subsections (f) and (g) as sub-
22 sections (g) and (h), respectively; and

23 (2) by inserting after subsection (e) the following
24 new subsection:

1 “(f) FORFEITURE OF PROPERTY INTEREST AND PRO-
2 CEEDS.—Any person who is convicted of a violation of an
3 export control imposed under section 5 of this Act shall, in
4 addition to any other penalty, forfeit to the United States (1)
5 any property interest that person has in the goods or technol-
6 ogy that were the subject of the violation or that were used
7 to facilitate the commission of the violation, and (2) any pro-
8 ceeds derived directly or indirectly by that person from the
9 transaction from which the violation arose.”.

10 (e) Section 11(h) of the Act, as redesignated by subsec-
11 tion (d) of this section, is amended by striking out “or (f)” and
12 inserting in lieu thereof “(f), or (g)”.

13 ENFORCEMENT AUTHORITY

14 SEC. 103. Section 12(a) of the Act (50 U.S.C. App.
15 2411(a)) is amended—

16 (1) by inserting “(1)” immediately before the first
17 sentence; and

18 (2) by adding at the end thereof the following new
19 paragraphs:

20 “(2) The Secretary may designate any officer or em-
21 ployee of the Department of Commerce to do the following in
22 carrying out enforcement authorities under this Act:

23 “(A) Execute any warrant or other process issued
24 by a court or officer of competent jurisdiction with re-
25 spect to the enforcement of the provisions of this Act.

1 “(B) Make arrests without warrant for any viola-
2 tion of this Act committed in his or her presence or
3 view, or if the officer or employee has probable cause
4 to believe that the person to be arrested has committed
5 or is committing such a violation.

6 “(C) Search without warrant or process any
7 person, place, or vehicle on which, and any baggage in
8 which, the officer or employee has probable cause to
9 believe there are goods or technology being exported
10 or about to be exported in violation of this Act.

11 “(D) Seize without warrant or process any goods
12 or technology which the officer or employee has prob-
13 able cause to believe have been, are being, or are
14 about to be exported in violation of this Act.

15 “(E) Carry firearms in carrying out any activity
16 described in subparagraphs (A) through (D).

17 “(3)(A) Notwithstanding any other provision of law, the
18 authority of customs officers with respect to violations of this
19 Act shall be limited to (i) inspection of or other search for and
20 detention and seizure of goods or technology at those places
21 in which such officers are authorized by law to conduct such
22 searches, detentions, and seizures, and (ii) any investigation
23 conducted prior to such inspection, search, detention, or sei-
24 zure. Upon seizure by any customs officer of any goods or
25 technology in the enforcement of this Act, the matter shall be

1 referred to the Department of Commerce for further investi-
2 gation and other appropriate action under this Act.

3 “(B) In conducting inspections of goods and technology
4 in the enforcement of this Act, the United States Customs
5 Service shall limit those inspections to goods and technology
6 with respect to which the Customs Service has received spe-
7 cific information of possible violations of this Act, and shall
8 not conduct random inspections which would result in the
9 detainment of shipments of goods or technology that are in
10 full compliance with this Act.

11 “(C) Notwithstanding any other provision of law, not
12 more than \$14,000,000 may be expended by the United
13 States Customs Service in any fiscal year in the enforcement
14 of export controls.

15 “(4) All provisions of law relating to the seizure, forfeit-
16 ure, and condemnation of articles for violations of the cus-
17 toms laws, the disposition of such articles or the proceeds
18 from the sale thereof, and the remission or mitigation of such
19 forfeitures, shall apply to the seizures and forfeitures in-
20 curred, or alleged to have been incurred, under the provisions
21 of this subsection or section 11(f) of this Act, insofar as such
22 provisions of law are applicable and not inconsistent with the
23 provisions of this subsection or section 11(f) of this Act;
24 except that all powers, rights, and duties conferred or im-
25 posed by the customs laws upon any officer or employee of

1 the Department of the Treasury shall, for the purposes of this
2 subsection and section 11(f) of this Act, be exercised or per-
3 formed by the Secretary or by such persons as the Secretary
4 may designate.”.

5 FINDINGS; DECLARATION OF POLICY

6 SEC. 104. (a)(1) Section 2 of the Act (50 U.S.C. App.
7 2401) is amended in paragraph (3) by striking out “which
8 would strengthen the Nation’s economy” and inserting in lieu
9 thereof “consistent with the economic, security, and foreign
10 policy objectives of the United States”.

11 (2) Section 2 of the Act is further amended by adding at
12 the end thereof the following:

13 “(10) It is important that the administration of
14 export controls imposed for foreign policy purposes
15 give special emphasis to the need to control exports of
16 goods and substances hazardous to the public health
17 and the environment that are banned or severely re-
18 stricted for use in the United States, which exports
19 could affect the international reputation of the United
20 States as a responsible trading partner.”.

21 (b) Section 3 of the Act (50 U.S.C. App. 2402) is
22 amended by adding at the end thereof the following:

23 “(12) It is the policy of the United States to sus-
24 tain vigorous scientific enterprise. To do so requires
25 protecting the ability of scientists and other scholars

1 freely to communicate their research findings by means
2 of publication, teaching, conferences, and other forms
3 of scholarly exchange.

4 “(13) It is the policy of the United States to con-
5 trol the export of goods and substances banned or se-
6 verely restricted for use in the United States in order
7 to foster public health and safety and to prevent injury
8 to the foreign policy of the United States as well as
9 the credibility of the United States as a responsible
10 trading partner.”.

11 TYPES OF LICENSES

12 SEC. 105. Section 4(a)(2) of the Act (50 U.S.C. App.
13 2403(a)(2)) is amended to read as follows:

14 “(2) Licenses authorizing multiple exports, issued
15 pursuant to an application by the exporter, in lieu of a
16 validated license for each such export, including but
17 not limited to the following:

18 “(A) A qualified general license, authorizing
19 exports of goods for approved end uses.

20 “(B) A distribution license, authorizing ex-
21 ports of goods to approved distributors or users of
22 the goods.

23 “(C) A project license, authorizing exports of
24 goods or technology for a specified activity.

1 “(D) A service supply license, authorizing
2 exports of spare or replacement parts for goods
3 previously exported.

4 “(E) A comprehensive operations license,
5 authorizing exports of goods or technology be-
6 tween and among a domestic concern and foreign
7 subsidiaries, affiliates, vendors, joint venturers,
8 and licensees of that concern which are approved
9 by the Secretary.”.

10 NATIONAL SECURITY CONTROLS

11 SEC. 106. (a)(1) Section 5(a)(1) of the Act (50 U.S.C.
12 App. 2404(a)(1)) is amended by inserting after the first sen-
13 tence the following new sentence: “The authority contained
14 in this subsection includes the authority to prohibit or curtail
15 the transfer of goods or technology within the United States
16 to embassies and affiliates of countries to which exports of
17 such goods or technology are controlled under this section.”.

18 (2) Section 5(a)(1) is further amended by inserting “the
19 Secretary of State, the Secretary of the Treasury, the United
20 States Trade Representative,” in the last sentence after the
21 phrase “the Secretary of Defense,”.

22 (b) Section 5(b) of the Act is amended by adding at the
23 end thereof the following new sentence: “No authority or
24 permission to export may be required under this section
25 before goods or technology are exported in the case of ex-

1 ports to a country which maintains export controls on such
2 goods or technology cooperatively with the United States,
3 except that the Secretary may require an export license for
4 the export of such goods or technology to such end users as
5 the Secretary may specify by regulation. The Secretary may
6 also by regulation require any person exporting any such
7 goods or technology otherwise subject to export controls
8 under this section to notify the Department of Commerce of
9 those exports.”.

10 (c) Section 5(b) of the Act is further amended—

11 (1) by inserting “(1)” immediately before the first
12 sentence; and

13 (2) by adding at the end thereof the following:

14 “(2) The export of goods and technology to the People’s
15 Republic of China should be subject to no greater restriction
16 under this Act than the export of goods and technology to
17 any friendly nonaligned country.”.

18 (d) Section 5(e) of the Act is amended by adding at the
19 end thereof the following:

20 “(5) The export of technology and related goods subject
21 to export controls under this section, including items on the
22 list of militarily critical technologies developed pursuant to
23 subsection (d) of this section, shall be eligible for a compre-
24 hensive operations license which would authorize, over a
25 period of years and to countries other than those described in

1 section 620(f) of the Foreign Assistance Act of 1961, multi-
2 ple exports and reexports between and among a domestic
3 concern and foreign subsidiaries, affiliates, vendors, joint ven-
4 turers, and licensees of that concern which are approved by
5 the Secretary.

6 “(6) The export to countries other than those described
7 in section 620(f) of the Foreign Assistance Act of 1961 of
8 goods and technology subject to export controls under this
9 section shall be eligible for a distribution license or other li-
10 censes authorizing multiple exports. The Secretary shall peri-
11 odically monitor exports made pursuant to such licenses in
12 order to insure compliance with the provisions of this Act.”.

13 (e) Section 5(g) of the Act is amended—

14 (1) in the second sentence by striking out “by the
15 latest such increase” and inserting in lieu thereof “by
16 the regulations”; and

17 (2) by inserting after the first sentence the follow-
18 ing: “The regulations issued by the Secretary shall es-
19 tablish as one criterion for the removal of goods or
20 technology from such license requirements the antici-
21 pated needs of the military of countries to which ex-
22 ports are controlled for national security purposes.”.

23 (f) Section 5(k) of the Act is amended—

1 (1) by inserting “, including those countries not
2 participating in the group known as the Coordinating
3 Committee,” after “other countries”; and

4 (2) by striking out “section 3(9)” and inserting in
5 lieu thereof “paragraphs (9) and (10) of section 3”.

6 (g) Section 5 of the Act is amended by adding at the end
7 thereof the following new subsection:

8 “(m) **GOODS CONTAINING MICROPROCESSORS.**—
9 Export controls may not be imposed under this section on a
10 good solely on the basis that the good contains an embedded
11 microprocessor, if such microprocessor cannot be used or al-
12 tered to perform functions other than those it performs in the
13 good in which it is embedded. An export control may be im-
14 posed under this section on a good containing such a micro-
15 processor only on the basis that the functions of the good
16 itself are such that the good, if exported, would make a sig-
17 nificant contribution to the military potential of any other
18 country or combination of countries which would prove detri-
19 mental to the national security of the United States.

20 “(n) **NUCLEAR EXPORTS.**—Notwithstanding section 17
21 of this Act or any other provision of law—

22 “(1) no license may be issued under this Act for
23 the export to a nonnuclear-weapon state of goods or
24 technology which are to be used in a nuclear produc-
25 tion or utilization facility, or which, in the judgment of

1 the Secretary, are likely to be diverted for use in such
2 a facility;

3 “(2) no authorization to engage, directly or indi-
4 rectly, in the production of any special nuclear material
5 in a nonnuclear-weapon state may be given;

6 “(3) no license may be issued for the export to a
7 nonnuclear-weapon state of component parts or other
8 items or substances especially relevant from the stand-
9 point of export control because of their significance for
10 nuclear explosive purposes; and

11 “(4) no retransfer to a nonnuclear-weapon state of
12 any goods, technology, special nuclear material, com-
13 ponents, items, or substances described in paragraphs
14 (1), (2), and (3) may be approved;

15 unless the country to which the goods, technology, compo-
16 nents, items, or substances will be exported or retransferred,
17 or in which the special nuclear material is to be produced,
18 maintains International Atomic Energy Agency safeguards
19 on all its peaceful nuclear activities. The restrictions con-
20 tained in the preceding sentence shall apply to any decision
21 made after August 1, 1983, to issue a license described in
22 paragraph (1) or (3), to give an authorization described in
23 paragraph (2), or to approve a retransfer described in para-
24 graph (4). The restrictions contained in this subsection shall
25 not apply in a particular case if the President determines by

1 Executive order that to apply the prohibition in that case
2 would be seriously prejudicial to the achievement of United
3 States nonproliferation objectives or would otherwise
4 jeopardize the common defense and security and if, at least
5 60 days before the export, retransfer, or other activity au-
6 thorized is carried out, the President submits that Executive
7 order, together with the reasons for his determination, to the
8 Congress.”.

9 COORDINATING COMMITTEE

10 SEC. 107. Section 5(i) of the Act (50 U.S.C. App.
11 2404(i)) is amended by adding at the end thereof the follow-
12 ing:

13 “(5) Agreement to improve the International Con-
14 trol List and minimize the approval of exceptions to
15 that list, strengthen enforcement and cooperation in en-
16 forcement efforts, provide sufficient funding for the
17 Committee, and improve the structure and function of
18 the Secretariat of the Committee by upgrading profes-
19 sional staff, translation services, data base mainte-
20 nance, communications, and facilities.

21 “(6) Agreement to coordinate the systems of
22 export control documents used by the participating
23 governments in order to verify effectively the move-
24 ment of goods or technology subject to controls by the
25 Committee from the country of one such government

1 to the territory of the country of any other such gov-
2 ernment or to any other country.

3 “(7) Agreement to establish uniform, adequate
4 criminal and civil penalties to more effectively deter di-
5 versions of items controlled for export by agreement of
6 the Committee.

7 “(8) Agreement to increase onsite inspections by
8 national enforcement authorities of the participating
9 governments to insure that end users who have import-
10 ed items controlled for export by agreement of the
11 Committee are using such items for the stated end
12 uses, and that such items are, in fact, under the control
13 of those end users.

14 “(9) Agreement to strengthen the Committee so
15 that it functions effectively in controlling export trade
16 in a manner that better protects the national security
17 of each participant to the benefit of all participants.

18 “(10) Agreement to provide for the imposition and
19 enforcement of export sanctions by the governments
20 participating in the Committee against the Soviet
21 Union or any other country if the Soviet Union or
22 other country commits violent acts against unarmed ci-
23 vilians of another country.”.

1 FOREIGN AVAILABILITY

2 SEC. 108. (a) Section 5(f)(1) of the Act (50 U.S.C. App.
3 2404(f)(1)) is amended by inserting after the second sentence
4 the following new sentence: "For purposes of the preceding
5 sentence, the term 'detrimental to the national security of the
6 United States' means likely to result in a significant reduc-
7 tion in the military capabilities of the United States or likely
8 to result in a significant advance in the military capabilities of
9 countries to which the goods or technology involved are con-
10 trolled under this section."

11 (b) Section 5(f)(4) of the Act (50 U.S.C. App. 2404(f)(4))
12 is amended by striking out the first sentence and inserting in
13 lieu thereof the following: "In any case in which export con-
14 trols are maintained under this section notwithstanding for-
15 eign availability, on account of a determination by the Presi-
16 dent that the absence of the controls would prove detrimental
17 to the national security of the United States, the President
18 shall take the necessary steps to conduct negotiations with
19 the governments of the appropriate foreign countries for the
20 purpose of eliminating such availability. If, within 6 months
21 after the President's determination, the foreign availability
22 has not been eliminated, the Secretary may not, after the end
23 of that 6-month period, require a validated license for the
24 export of the goods or technology involved. The President
25 may extend the 6-month period described in the preceding

1 sentence for an additional period of one year if the President
2 certifies to the Congress that the negotiations involved are
3 progressing and that the absence of the export control in-
4 volved would prove detrimental to the national security of
5 the United States.”.

6 (c) Section 5(f)(3) of the Act is amended to read as fol-
7 lows:

8 “(3) With respect to export controls imposed under this
9 section, in making any determination of foreign availability,
10 the Secretary shall accept the representations of applicants
11 unless such representations are contradicted by reliable evi-
12 dence, including scientific or physical examination, expert
13 opinion based upon adequate factual information, and intelli-
14 gence information.”.

15 (d)(1) Section 5(f)(5) of the Act is amended to read as
16 follows:

17 “(5) The Secretary shall establish in the Department of
18 Commerce an Office of Foreign Availability which shall be
19 under the direction of the Assistant Secretary of Commerce
20 for Trade Administration. The Office shall be responsible for
21 gathering and analyzing all the necessary information in
22 order for the Secretary to make determinations of foreign
23 availability under this Act. The Secretary shall make avail-
24 able to the Committee on Foreign Affairs of the House of
25 Representatives and the Committee on Banking, Housing,

1 and Urban Affairs of the Senate at the end of each 6-month
2 period during a fiscal year information on the operations of
3 the Office during that 6-month period. Such information shall
4 include a description of every determination made under this
5 Act during that 6-month period that foreign availability did
6 not exist, together with an explanation of that determina-
7 tion.”.

8 (2) Section 5(f)(6) of the Act is amended by striking out
9 “Office of Export Administration” and inserting in lieu there-
10 of “Office of Foreign Availability”.

11 (e) Section 5(f) of the Act is amended by adding at the
12 end thereof the following new paragraph:

13 “(7) The Secretary shall issue regulations with respect
14 to determinations of foreign availability under this Act not
15 later than 6 months after the date of the enactment of the
16 Export Administration Amendments Act of 1983.”.

17 (f) Section 5(h)(6) of the Act is amended by striking out
18 “and provides adequate documentation” and all that follows
19 through the end of the paragraph and inserting in lieu thereof
20 the following: “the technical advisory committee shall submit
21 that certification to the Congress at the same time the certifi-
22 cation is made to the Secretary, together with the documen-
23 tation for the certification, in accordance with the procedures
24 established pursuant to subsection (f)(1) of this section. The
25 Secretary shall investigate the foreign availability so certified

1 and, not later than 90 days after the certification is made,
2 shall submit a report to the technical advisory committee and
3 the Congress stating that (A) the Secretary has removed the
4 requirement of a validated license for the export of the goods
5 or technology, on account of the foreign availability, (B) the
6 Secretary has recommended to the President that negotia-
7 tions be conducted to eliminate the foreign availability, or (C)
8 the Secretary has determined on the basis of the investigation
9 that the foreign availability does not exist. To the extent nec-
10 essary, the report may be submitted on a classified basis. In
11 any case in which the Secretary has recommended to the
12 President that negotiations be conducted to eliminate the for-
13 eign availability, the President shall take the necessary steps
14 to conduct such negotiations with the governments of the ap-
15 propriate foreign countries. If, within 6 months after the Sec-
16 retary submits such report to the Congress, the foreign avail-
17 ability has not been eliminated, the Secretary may not, after
18 the end of that 6-month period, require a validated license for
19 the export of the goods or technology involved. The Presi-
20 dent may extend the 6-month period described in the preced-
21 ing sentence for an additional period of one year if the Presi-
22 dent certifies to the Congress that the negotiations involved
23 are progressing and that the absence of the export control
24 involved would prove detrimental to the national security of
25 the United States.”.

1 **MILITARILY CRITICAL TECHNOLOGIES**

2 SEC. 109. Section 5(d) of the Act (50 U.S.C. App.
3 2404(d)) is amended by striking out paragraphs (4) through
4 (6) and inserting in lieu thereof the following:

5 “(4)(A) The Secretary and the Secretary of Defense
6 shall complete the integration of the list of militarily critical
7 technologies into the commodity control list not later than
8 April 1, 1985. The integration of the list of militarily critical
9 technologies into the commodity control list shall be complet-
10 ed with all deliberate speed, and the Secretary and the Sec-
11 retary of Defense shall report to the appropriate committees
12 of the Congress, before April 1, 1985, any circumstances
13 which would preclude the completion of the integrated list by
14 that date. Any disagreement between the Secretary and the
15 Secretary of Defense as to whether a good or technology on
16 the list of militarily critical technologies should be integrated
17 into the commodity control list shall be resolved by the Presi-
18 dent not later than November 1, 1984. Such integrated list
19 shall include only a good or technology with respect to which
20 the Secretary finds that countries to which exports are con-
21 trolled under this section do not possess that good or technol-
22 ogy, or a functionally equivalent good or technology, and the
23 good or technology or functionally equivalent good or tech-
24 nology is not available in fact to such a country from sources
25 outside the United States in sufficient quantity and of compa-

1 rable quality so that the requirement of a validated license for
2 the export of such good or technology is or would be ineffec-
3 tive in achieving the purpose set forth in subsection (a) of this
4 section, except in the case of a determination of the President
5 with respect to goods or technology under subsection (f)(1) of
6 this section. The Secretary and the Secretary of Defense
7 shall jointly submit a report to the Congress, not later than
8 April 1, 1985, on actions taken to carry out this subpara-
9 graph.

10 “(B) The General Accounting Office shall evaluate the
11 efforts of the Secretary and the Secretary of Defense to inte-
12 grate the list of militarily critical technologies into the com-
13 modity control list, and the feasibility of such integration. In
14 conducting such evaluation, the General Accounting Office
15 shall determine whether foreign availability was used as a
16 criterion in developing the commodity control list pursuant to
17 subparagraph (A) and whether the completed list reflected
18 the intent of the Congress in enacting this subsection. In con-
19 ducting such evaluation, the General Accounting Office shall
20 have access to all information relating to the list of militarily
21 critical technologies. Not later than April 1, 1985, the Gen-
22 eral Accounting Office shall submit a detailed report to the
23 Congress on the results of the evaluation conducted pursuant
24 to this subparagraph.

1 “(C) The Secretary and the Secretary of Defense, in
2 integrating the list of militarily critical technologies into the
3 commodity control list pursuant to subparagraph (A), shall
4 consider mechanisms to reduce the list of militarily critical
5 technologies.

6 “(5) The Secretary of Defense shall establish a proce-
7 dure for reviewing the goods and technology on the list of
8 militarily critical technologies at least annually after the inte-
9 grated list is completed pursuant to paragraph (4)(A), for the
10 purpose of removing from the list of militarily critical tech-
11 nologies any goods or technology that are no longer militarily
12 critical. The Secretary of Defense may, after the integrated
13 list is so completed, add to the list of militarily critical tech-
14 nologies any good or technology that the Secretary of De-
15 fense determines is militarily critical. If the Secretary and the
16 Secretary of Defense disagree as to whether any change in
17 the list of militarily critical technologies by the addition or
18 removal of a good or technology should also be made in the
19 commodity control list, the President shall resolve the dis-
20 agreement not later than 3 months after the change is made
21 in the list of militarily critical technologies.

22 “(6) The Secretary of Defense shall, not later than April
23 1, 1985, report to the appropriate committees of the Con-
24 gress on efforts by the Department of Defense to assess the
25 impact that the transfer of goods or technology on the list of

1 militarily critical technologies to countries to which exports
2 are controlled under this section has had or will have on the
3 military capabilities of those countries.”.

4 CRITERIA FOR FOREIGN POLICY CONTROLS; CONSULTA-
5 TION WITH OTHER COUNTRIES; REPORT TO CON-
6 GRESS

7 SEC. 110. (a) Section 6(b) of the Act (50 U.S.C. App.
8 2405(b)) is amended to read as follows:

9 “(b) CRITERIA.—When imposing, expanding, or ex-
10 tending export controls on goods or technology under this
11 section, the President shall consider whether—

12 “(1) the intended foreign policy purposes of the
13 proposed controls can be achieved through negotiations
14 or other alternative means;

15 “(2) the proposed controls are compatible with the
16 foreign policy objectives of the United States and with
17 overall United States policy toward the country to
18 which exports are to be subject to the proposed con-
19 trols;

20 “(3) the proposed controls will have an adverse
21 effect on the economic or political relations of the
22 United States with other friendly countries;

23 “(4) the proposed controls will have a substantial
24 adverse effect on the export performance of the United
25 States, on the competitive position of the United States

1 in the international economy, on the international repu-
2 tation of the United States as a reliable supplier of
3 goods and technology, or on the economic well-being of
4 individual United States industries, companies, and
5 their employees and communities;

6 “(5) the United States has the ability to enforce
7 the proposed controls effectively;

8 “(6) the proposed controls are likely to achieve
9 the intended foreign policy purpose; and

10 “(7)(A) the good or technology, or a similar good
11 or technology, is available in sufficient quantity from
12 sources outside the United States to the country to
13 which exports are to be subject to the proposed con-
14 trols, or (B) negotiations have been successfully con-
15 cluded with the appropriate foreign governments to
16 ensure the cooperation of such governments in control-
17 ling the export of such good or technology to the coun-
18 try to which exports are to be subject to the proposed
19 controls, except that the preceding provisions of this
20 paragraph shall not apply if the President determines
21 that the proposed controls are necessary to further ef-
22 forts by the United States to counter international ter-
23 rorism or to promote observance of internationally rec-
24 ognized human rights.”.

25 (b) Section 6 of the Act is amended—

1 (1) by redesignating subsections (d) through (k) as
2 subsections (e) through (l), respectively; and

3 (2) by inserting after subsection (c) the following
4 new subsection:

5 “(d) CONSULTATION WITH OTHER COUNTRIES.—
6 Before export controls are imposed under this section, the
7 President should consult with the countries with which the
8 United States maintains export controls cooperatively, and
9 with such other countries as the President considers appro-
10 priate, with respect to the criteria set forth in subsection (b)
11 and such other matters as the President considers appropri-
12 ate.”.

13 (c) Section 6(f) of the Act, as redesignated by subsection
14 (b)(1) of this section, is amended to read as follows:

15 “(f) CONSULTATION WITH THE CONGRESS.—(1) The
16 President may impose, expand, or extend export controls
17 under this section only after consultation with the Committee
18 on Foreign Affairs of the House of Representatives and the
19 Committee on Banking, Housing, and Urban Affairs of the
20 Senate.

21 “(2) Following consultation with the Congress in ac-
22 cordance with paragraph (1) and before imposing, expanding,
23 or extending export controls under this section, the President
24 shall submit to the Congress a report—

1 “(A) indicating how the proposed export controls
2 will further, significantly, the foreign policy of the
3 United States or will further its declared international
4 obligations;

5 “(B) specifying the conclusions of the President
6 with respect to each of the criteria set forth in subsection (b), and any possible adverse foreign policy consequences;

9 “(C) describing the nature, the subjects, and the
10 results of the consultation with industry pursuant to
11 subsection (c) and with other countries pursuant to subsection (d);

13 “(D) specifying the nature and results of any alternative means attempted under subsection (e), or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means;
17 and

18 “(E) describing the availability from other countries of goods or technology comparable to the goods or technology subject to the proposed export controls, and describing the nature and results of the efforts made pursuant to subsection (h) to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

1 The concerns expressed by Members of Congress during the
2 consultations required by this subsection shall be specifically
3 addressed in each report submitted pursuant to this para-
4 graph.

5 “(3) To the extent necessary to further the effectiveness
6 of the export controls, portions of a report required by para-
7 graph (2) may be submitted to the Congress on a classified
8 basis, and shall be subject to the provisions of section 12(c) of
9 this Act.

10 “(4) In the case of export controls under this section
11 which prohibit or curtail the export of any agricultural com-
12 modity, a report submitted pursuant to paragraph (2) shall be
13 deemed to be the report required by section 7(g)(3) of this
14 Act.”.

15 (d) Section 6(i) of the Act, as redesignated by subsection
16 (b)(1) of this section, is amended by striking out “(f), and (g)”
17 and inserting in lieu thereof “(e), (g), and (h)”.

18 EFFECT OF CONTROLS ON EXISTING CONTRACTS AND
19 LICENSES

20 SEC. 111. (a) Section 6 of the Act (50 U.S.C. App.
21 2405), as amended by section 110 of this Act, is further
22 amended by adding at the end thereof the following new sub-
23 section:

24 “(m) EFFECT OF CONTROLS ON EXISTING CON-
25 TRACTS AND LICENSES.—Any export controls imposed

1 under this section shall not affect any contract to export en-
2 tered into before the date on which such controls are imposed
3 or any export license issued under this Act before such date.
4 The preceding sentence shall not apply in a case in which the
5 export controls imposed relate directly, immediately, and sig-
6 nificantly to actual or imminent acts of aggression or of inter-
7 national terrorism, to actual or imminent gross violations of
8 internationally recognized human rights, or to actual or im-
9 minent nuclear weapons tests, in which case the President
10 shall promptly notify the Congress of the circumstances to
11 which the export controls relate and of the contracts or li-
12 censes affected by the controls. Any export controls described
13 in the preceding sentence shall affect existing contracts and
14 licenses only so long as the acts of aggression or terrorism,
15 violations of human rights, or nuclear weapons tests continue
16 or remain imminent. For purposes of this subsection, the
17 term 'contract to export' includes, but is not limited to, an
18 export sales agreement and an agreement to invest in an en-
19 terprise which involves the export of goods or technology.”.

20 (b) Section 7 of the Act (50 App. 2406) is amended by
21 adding at the end thereof the following new subsection:

22 “(k) EFFECT OF CONTROLS ON EXISTING CON-
23 TRACTS.—Any export controls imposed under this section
24 shall not affect any contract to export entered into before the
25 date on which such controls are imposed, including any con-

1 tract to harvest unprocessed western red cedar (as defined in
2 subsection (i)(4) of this section) from State lands, the perform-
3 ance of which contract would make the red cedar available
4 for export. For purposes of this subsection, the term 'contract
5 to export' includes, but is not limited to, an export sales
6 agreement and an agreement to invest in an enterprise which
7 involves the export of goods or technology.'".

8 (c) The amendment made by subsection (a) shall not
9 apply to export controls imposed before the date of the enact-
10 ment of this Act. The amendment made by subsection (b)
11 shall apply to export controls in effect on the date of the
12 enactment of this Act and export controls imposed after such
13 date.

14 EXEMPTION FROM FOREIGN POLICY CONTROLS

15 SEC. 112. (a) Section 6(g) of the Act (50 U.S.C. App.
16 2405(g)), as redesignated by section 110(a)(1) of this Act, is
17 amended to read as follows:

18 "(g) EXCLUSION FOR FOOD, MEDICINE, OR MEDICAL
19 SUPPLIES.—This section does not authorize export controls
20 on food, medicine, or medical supplies. This section also does
21 not authorize export controls on donations of goods intended
22 to meet basic human needs. It is the intent of the Congress
23 that the President not impose export controls under this sec-
24 tion on any goods or technology if he determines that the
25 principal effect of the export of such goods or technology

1 would be to help meet basic human needs. This subsection
2 shall not be construed to prohibit the President from impos-
3 ing restrictions on the export of medicine, medical supplies,
4 or food under the International Emergency Economic
5 Powers Act. This subsection shall not apply to any export
6 control on medicine, medical supplies, or food, other than do-
7 nations, which is in effect on the effective date of the Export
8 Administration Amendments Act of 1983. Notwithstanding
9 the preceding provisions of this subsection, the President may
10 impose export controls under this section on medicine, medi-
11 cal supplies, food, or donations of goods in order to carry out
12 the policy set forth in paragraph (13) of section 3 of this
13 Act.”.

14 (b) Section (h) of the Act (50 U.S.C. App. 2405(g)), as
15 redesignated by section 110(b)(1) of the Act, is amended—

16 (1) by designating the existing text of section (h)
17 as paragraph “(1)”; and

18 (2) adding at the end thereof the following:

19 “(2) The President shall evaluate the results of
20 his actions under paragraph (1) of this subsection by
21 the end of the first 6-month period of controls imposed
22 under this section and shall report the results of that
23 evaluation to Congress by the end of such 6-month
24 period.

1 “(3) In the event that the President’s efforts are
2 not successful in eliminating foreign availability during
3 the first 6-month period when controls imposed under
4 this paragraph are in effect, the Secretary shall there-
5 after take into account the foreign availability of goods
6 or technology subject to controls. If the Secretary
7 affirmatively determines that a similar good or technol-
8 ogy is available in sufficient quantity from sources out-
9 side the United States to countries subject to such con-
10 trols so that denial of the license would be ineffective
11 in achieving the purposes of the controls, then, the
12 Secretary shall issue a license for the export of such
13 goods or technology during the period of such foreign
14 availability. The Secretary shall remove such goods or
15 technology from the list established pursuant to subsec-
16 tion (1) if he determines such action is appropriate.

17 “(4) The Secretary shall make a determination of
18 foreign availability on his own initiative or upon receipt
19 of an allegation that such availability exists from an
20 export license applicant. The Secretary shall accept the
21 applicant’s representations made in writing and sup-
22 ported by clear and convincing evidence, unless such
23 representations are contradicted by reliable evidence,
24 including scientific or physical examination, expert

1 opinion based upon adequate factual information, or in-
2 telligence information.

3 “(5) Paragraph (3) of this subsection shall not
4 apply in a case in which export controls are imposed
5 under subsections (i), (j), or (k) of this section.

6 “(6) The Secretary shall promulgate regulations
7 establishing procedures for carrying out this section.”.

8 **FOREIGN POLICY CONTROLS AUTHORITY**

9 **SEC. 113. (a)** Section 6(a)(1) of the Act (50 U.S.C. App.
10 2405(a)(1)) is amended to read as follows: “In order to carry
11 out the policy set forth in paragraph (2)(B), (7), (8), or (13) of
12 section 3 of this Act, the President may prohibit or curtail
13 the exportation from the United States of any goods, technol-
14 ogy, or other information produced in the United States, to
15 the extent necessary to further significantly the foreign policy
16 of the United States or to fulfill its declared international
17 obligations. The authority granted by this subsection shall be
18 exercised by the Secretary, in consultation with the Secre-
19 tary of State, the Secretary of Defense, the Secretary of Ag-
20 riculture, the Secretary of the Treasury, the United States
21 Trade Representative, and such other departments and agen-
22 cies as the Secretary considers appropriate, and shall be im-
23 plemented by means of export licenses issued by the Secre-
24 tary.”.

1 (b) Section 6(a) of the Act is further amended by redesh-
2 ignating paragraphs (2) through (4) as paragraphs (3) through
3 (5), respectively, and by inserting after paragraph (1) the fol-
4 lowing new paragraph:

5 “(2) Any export control imposed under this section shall
6 apply to any transaction or activity undertaken with the
7 intent to evade that export control, even if that export con-
8 trol would not otherwise apply to that transaction or
9 activity.”.

10 (c) Section 6 of the Act, as amended by sections 110
11 and 111 of this Act, is further amended by adding at the end
12 thereof the following new subsection:

13 “(n) EXPANDED AUTHORITY TO IMPOSE CON-
14 TROLS.—(1) In any case in which the President determines
15 that it is necessary to impose controls under this section—

16 “(A) with respect to goods, technology, other in-
17 formation, or persons other than that authorized by
18 subsection (a)(1) of this section; or

19 “(B) without any limitation contained in subsec-
20 tion (c), (d), (e), (g), (h), or (m) of this section,

21 the President may impose those controls only if the President
22 submits that determination to the Congress, together with a
23 report pursuant to subsection (f) of this section with respect
24 to the proposed controls, and only if a law is enacted author-
25 izing the imposition of those controls. If a joint resolution

1 authorizing the imposition of those controls is introduced in
2 either House of Congress within 30 days of continuous ses-
3 sion after the Congress receives the determination and report
4 of the President, that joint resolution shall immediately be
5 referred to the Committee on Banking, Housing, and Urban
6 Affairs of the Senate and the Committee on Foreign Affairs
7 of the House of Representatives. If either such committee
8 has not reported the joint resolution at the end of 30 days of
9 continuous session after its referral, such committee shall be
10 deemed to be discharged from further consideration of the
11 resolution.

12 “(2) For purposes of this subsection, the term ‘joint res-
13 olution’ means a joint resolution the matter after the resolv-
14 ing clause of which is as follows: ‘That the Congress, having
15 received on a determination of the President
16 under section 6(n)(1) of the Export Administration Act of
17 1979 with respect to the export controls which are set forth
18 in the report submitted to the Congress with that determina-
19 tion, authorizes the President to impose those export con-
20 trols.’, with the date of the receipt of the determination and
21 report inserted in the blank.

22 “(3) For purposes of this subsection—

23 “(A) continuity of session is broken only by an
24 adjournment of the Congress sine die, and

1 “(B) the days on which either House is not in ses-
2 sion because of an adjournment of more than 3 days to
3 a day certain are excluded in the computation of any
4 period of time in which Congress is in continuous
5 session.”.

6 (d) The amendments made by subsections (a), (b), and (c)
7 of this section shall not apply to export controls imposed
8 under section 6 of the Act before the date of the enactment of
9 this Act which are extended in accordance with such section
10 6 on or after such date of enactment.

11 CRIME CONTROL INSTRUMENTS

12 SEC. 114. (a) Section 6(k)(1) of the Act (50 U.S.C. App.
13 2405(k)(1)), as redesignated by section 110(b)(1) of this Act,
14 is amended by adding at the end thereof the following new
15 sentence: “Notwithstanding any other provision of this Act,
16 any determination of the Secretary—

17 “(A) of what goods or technology shall be includ-
18 ed on the list established pursuant to subsection (l) of
19 this section as a result of the export restrictions im-
20 posed by this subsection shall be made with the con-
21 currence of the Secretary of State, or

22 “(B) to approve or deny an export license applica-
23 tion to export crime control or detection instruments or
24 equipment shall be made in concurrence with the rec-
25 ommendations of the Secretary of State submitted to

1 the Secretary with respect to the application pursuant
2 to section 10(e) of this Act,
3 except that if the Secretary does not agree with the Secre-
4 tary of State with respect to any such determination, the
5 matter shall be referred to the President for resolution.”.

6 (b) The amendment made by subsection (a) shall apply
7 to determinations of the Secretary of Commerce which are
8 made on or after the date of the enactment of this Act.

9 REIMPOSITION OF EXPORT CONTROLS

10 SEC. 115. (a) Section 6 of the Act, as amended by sec-
11 tions 110, 111, and 113 of this Act, is further amended by
12 adding at the end thereof the following new subsection:

13 “(o) EXTENSION OF CERTAIN CONTROLS.—Those
14 export controls imposed under this section which were in
15 effect on February 28, 1982, and ceased to be effective on
16 March 1, 1982, September 15, 1982, or January 20, 1983
17 (except those controls with respect to the 1980 summer
18 Olympic games), shall become effective on the date of the
19 enactment of this subsection, and shall remain in effect until
20 1 year after such date of enactment. At the end of that 1-
21 year period, any of those controls made effective by this sub-
22 section may be extended by the President in accordance with
23 subsections (b) and (f) of this section.”.

24 (b) Section 6(j) of the Act, as redesignated by section
25 110(b)(1) of this Act, is amended by adding at the end thereof

1 the following new sentence: "Any such determination which
2 has been made with respect to a country may not be rescind-
3 ed unless the President first submits to the Congress a report
4 justifying the rescission and certifying that the country con-
5 cerned has not provided support for international terrorism,
6 including support for groups engaged in such terrorism, for
7 the preceding 12-month period."

8 (c) The amendment made by subsection (b) shall apply
9 with respect to any export control made effective by the
10 amendment made by subsection (a).

11 PETITIONS FOR SHORT SUPPLY CONTROLS

12 SEC. 116. (a) Section 7(c)(1)(A) of the Act (50 U.S.C.
13 App. 2406(c)(1)(A)) is amended to read as follows:

14 "(c) PETITIONS FOR MONITORING OR CONTROLS.—
15 (1)(A) Any entity, including a trade association, firm, or certi-
16 fied or recognized union or group of workers, which is repre-
17 sentative of an industry or a substantial segment of an indus-
18 try which processes metallic materials capable of being recy-
19 cled (i) with respect to which an increase in domestic prices
20 or a domestic shortage, either of which results from increased
21 exports, is or may be a substantial cause of adverse effect on
22 the national economy or any sector thereof or on a domestic
23 industry, and (ii) with respect to which a significant increase
24 in exports is or may be a substantial cause of adverse effect
25 on the national economy or any sector thereof or on a domes-

1 tic industry, may transmit a written petition to the Secretary
2 requesting the monitoring of exports or the imposition of
3 export controls, or both, with respect to such material, in
4 order to carry out the policy set forth in section 3(2)(C) of
5 this Act.”.

6 (b) Section 7(c)(1)(B) of the Act is amended—

7 (1) in clause (i) by striking out “and” after
8 “supply,”; and

9 (2) by striking out the period at the end thereof
10 and inserting in lieu thereof “, and (iii) that the criteria
11 set forth in paragraph (3)(A) of this subsection are sat-
12 isfied.”.

13 (c) Section 7(c)(1) of the Act is further amended by
14 adding at the end thereof the following:

15 “(C)(i) For purposes of this subsection, the term ‘sub-
16 stantial cause’ means a cause which is important and not less
17 than any other cause.

18 “(ii) Before March 1, 1984, the Secretary shall issue
19 regulations, in accordance with section 553 of title 5, United
20 States Code, which define the operative terms contained in
21 section 3(2)(C) of this Act and in this subsection, including
22 but not limited to the following: ‘excessive drain’, ‘scarce ma-
23 terials’, ‘serious inflationary impact of foreign demand’, ‘do-
24 mestic shortage’, ‘increase in domestic prices’ and ‘increase
25 in the domestic price’, ‘representative of an industry or a

1 substantial segment of an industry', 'domestic industry', 'spe-
2 cific period of time', 'national economy or any sector thereof',
3 'significant increase in exports', and 'adverse effect'.".

4 (d) Section 7(c)(3) of the Act is amended to read as
5 follows:

6 "(3)(A) Within 45 days after the end of the 30-day or
7 45-day period described in paragraph (2), as the case may be,
8 the Secretary shall determine whether to impose monitoring
9 or controls, or both, on the export of the material which is
10 the subject of the petition, in order to carry out the policy set
11 forth in section 3(2)(C) of this Act. In making such determi-
12 nation, the Secretary shall determine whether—

13 "(i) there has been a significant increase, in rela-
14 tion to a specific period of time, in exports of such
15 material;

16 "(ii) there has been a significant increase in the
17 domestic price of such material or a domestic shortage
18 of such material and exports are a substantial cause of
19 such domestic price increase or domestic shortage;

20 "(iii) exports of such material are or may be a
21 substantial cause of adverse effect on the national
22 economy or any sector thereof or on a domestic indus-
23 try; and

1 “(iv) monitoring or controls or both are necessary
2 in order to carry out the policy set forth in section
3 3(2)(C) of this Act.

4 “(B) The Secretary shall publish in the Federal Register
5 a detailed statement of the reasons for the Secretary’s deter-
6 mination pursuant to subparagraph (A) of whether to impose
7 monitoring or controls, or both, including the findings of fact
8 in support of that determination.”.

9 (e) Section 7(c)(6) of the Act is amended to read as
10 follows:

11 “(6) If a petition with respect to a particular material or
12 group of materials has been considered in accordance with all
13 the procedures prescribed in this subsection, the Secretary
14 shall not consider any other petition with respect to the same
15 material or group of materials which is filed within 6 months
16 after final action on the prior petition has been completed.”.

17 (f) Section 7(c) of the Act is further amended—

18 (1) by striking out paragraph (8) and redesignating
19 paragraphs (9) and (10) as paragraphs (8) and (9), re-
20 spectively;

21 (2) by amending paragraph (8), as redesignated by
22 paragraph (1) of this subsection, to read as follows:

23 “(8) The authority under this subsection shall not be
24 construed to affect the authority of the Secretary under any
25 provision of this Act other than this section.”; and

1 (3) by adding at the end thereof the following:

2 “(10) Notwithstanding subsection (a) or (b) of this sec-
3 tion, no action in response to an informal or formal request
4 by any entity described in paragraph (1)(A) of this subsection
5 to impose controls on or monitor the export of metallic mate-
6 rials capable of being recycled shall be taken under this sec-
7 tion except pursuant to this subsection. The Secretary, in any
8 other case, may not impose controls on or monitor the export
9 of metallic materials capable of being recycled unless the
10 Secretary makes the determination required by paragraph
11 (3)(A) of this subsection with respect to such controls or mon-
12 itoring and complies with paragraph (3)(B) with respect to
13 that determination.”.

14 (g) Section 13(a) of the Act is amended by striking out
15 “section 11(c)(2)” and inserting in lieu thereof “sections
16 7(c)(1)(C)(ii) and 11(c)(2)”.

17 DOMESTICALLY PRODUCED CRUDE OIL

18 SEC. 117. Section 7(d) of the Act (50 U.S.C. App.
19 2406(d)) is amended—

20 (1) in paragraph (1) by striking out “unless” and
21 all that follows through “met” and inserting in lieu
22 thereof “subject to paragraph (2) of this subsection”;

23 (2) in paragraph (2)(A) by striking out “makes
24 and publishes” and inserting in lieu thereof “so recom-
25 mends to the Congress after making and publishing”;

1 (3) in paragraph (2)(B)—

2 (A) by striking out “reports such findings”
3 and inserting in lieu thereof “includes such find-
4 ings in his recommendation”; and

5 (B) by striking out “thereafter” and all that
6 follows through the end of the sentence and in-
7 serting in lieu thereof “after receiving that recom-
8 mendation, agrees to a joint resolution approving
9 such exports on the basis of those findings which
10 is thereafter enacted into law.”; and

11 (4) by adding at the end thereof the following:

12 “(4) Notwithstanding the provisions of section 20 of this
13 Act, the provisions of this subsection shall expire on Septem-
14 ber 30, 1987.”.

15 REFINED PETROLEUM PRODUCTS

16 SEC. 118. Section 7(e)(1) of the Act (50 U.S.C. App.
17 2406(e)(1)) is amended in the first sentence by striking out
18 “No” and inserting in lieu thereof “In any case in which the
19 President determines that it is necessary to impose export
20 controls on refined petroleum products in order to carry out
21 the policy set forth in section 3(2)(C) of this Act, the Presi-
22 dent shall notify the Congress of that determination. The
23 President shall also notify the Congress if and when he deter-
24 mines that such export controls are no longer necessary.

1 During any period in which a determination that such export
2 controls are necessary is in effect, no”.

3 AGRICULTURAL EXPORTS

4 SEC. 119. (a) Section 7(g)(3) of the Act (50 U.S.C. App.
5 2406(g)(3)) is amended by amending the second sentence to
6 read as follows: “If the Congress, within 60 days after the
7 date of its receipt of such report, does not adopt a joint reso-
8 lution approving such prohibition or curtailment, then such
9 prohibition or curtailment shall cease to be effective at the
10 end of that 60-day period.”.

11 (b) The third sentence of section 7(g)(3) of the Act is
12 amended by striking out “30-day” and inserting in lieu there-
13 of “60-day”.

14 LICENSING PROCEDURES

15 SEC. 120. (a) Section 10(c) of the Act (50 U.S.C. App.
16 2409(c)) is amended by striking out “90” and inserting in
17 lieu thereof “60”.

18 (b) Section 10(f)(2) of the Act is amended—

19 (1) by inserting “in writing” after “inform the ap-
20 plicant”; and

21 (2) by striking out “, and shall accord” and all
22 that follows through the end of the paragraph and in-
23 serting in lieu thereof a period and the following:
24 “Before a final determination with respect to the appli-
25 cation is made, the applicant shall be entitled—

1 “(A) to respond in writing to such questions, con-
2 siderations, or recommendations within 30 days after
3 receipt of such information from the Secretary; and

4 “(B) upon the filing of a written request with the
5 Secretary within 15 days after the receipt of such in-
6 formation, to respond in person to the department or
7 agency raising such questions, considerations, or rec-
8 ommendations.”.

9 (c) Section 10(f)(3) of the Act is amended—

10 (1) in the first sentence—

11 (A) by inserting “the proposed” before
12 “denial” the first two places it appears; and

13 (B) by striking out “denial” the third place it
14 appears and inserting in lieu thereof “determina-
15 tion to deny the application”; and

16 (2) by inserting after the first sentence the follow-
17 ing new sentence: “The Secretary shall allow the ap-
18 plicant at least 30 days to respond to the Secretary’s
19 determination before the license application is denied.”.

20 (d) Section 10 of the Act is amended—

21 (1) in the section heading by adding “; OTHER IN-
22 QUIRIES” after “APPLICATIONS”; and

23 (2) by adding at the end thereof the following new
24 subsections:

1 “(k) CHANGES IN REQUIREMENTS FOR APPLICA-
2 TIONS.—Except as provided in subsection (b)(3) of this sec-
3 tion, in any case in which, after a license application is sub-
4 mitted, the Secretary changes the requirements for such a
5 license application, the Secretary may request appropriate
6 additional information of the applicant, but the Secretary may
7 not return the application to the applicant without action be-
8 cause it fails to meet the changed requirements.

9 “(l) OTHER INQUIRIES.—(1) In any case in which the
10 Secretary receives a written request asking for the proper
11 classification of a good or technology on the commodity con-
12 trol list, the Secretary shall, within 10 days after receipt of
13 the request, inform the person making the request of the
14 proper classification.

15 “(2) In any case in which the Secretary receives a writ-
16 ten request for information about the applicability of export
17 license requirements under this Act to a proposed export
18 transaction or series of transactions, the Secretary shall,
19 within 30 days after receipt of the request, reply with that
20 information to the person making the request.

21 “(m) Not later than 90 days after enactment of this sub-
22 section, and not later than the end of each 3-month period
23 thereafter, the Secretary shall submit to the Committee on
24 Foreign Affairs of the House of Representatives, and to the
25 Committees on Banking, Housing and Urban Affairs and on

1 Foreign Relations of the Senate, a report listing all applica-
2 tions completed during the preceding 90 days which required
3 more than 60 calendar days of processing before notification
4 of a decision was sent to the applicant, and all applications
5 not yet decided which have been in process more than 60
6 calendar days. With regard to each such application the
7 report shall identify (1) the application case number, (2) the
8 value of the goods or technology to which the application
9 relates, (3) the country of destination of the goods, (4) the
10 date on which the application was received by the Secretary,
11 (5) the date on which the Secretary granted or denied the
12 application, (6) the date on which the notification of approval
13 or denial of the application was sent to the applicant, (7) the
14 total number of days which elapsed between receipt of the
15 application, in its properly completed form, and the earlier of
16 the last day of the 3-month period to which the report re-
17 lates, or the date that notification of the Secretary's decision
18 on the application was sent, and (8) if the application was
19 referred to other departments or agencies, a list of those de-
20 partments or agencies, the dates on which the application
21 was so referred, and the dates on which recommendations
22 were received from each such agency or department. If more
23 than 30 days elapses after referral of an application before
24 any such department or agency submits its recommendations
25 on such application to the Secretary, the report shall also list

1 the divisions or offices within such department or agency re-
2 sponsible for processing the application. Each report shall
3 also include a summary of the number of applications, and
4 the value of the goods or technology involved in the applica-
5 tions, grouped according to the number of days before action
6 on the applications was completed, as follows: 60-75 days,
7 76-90 days, 91-105 days, 106-120 days, and over 120
8 days. The report shall also include a summary by country of
9 destination of the number of applications, and the value of the
10 goods or technology involved in the applications, on which
11 action was not completed within 60 days.”.

12 TECHNICAL AMENDMENTS

13 SEC. 121. (a)(1) Section 7(i)(1) of the Act (50 U.S.C.
14 App. 2406(i)(1)) is amended in the last sentence by inserting
15 “harvested from State or Federal lands” after “red cedar
16 logs”.

17 (2) Section 7(i)(4)(A) of the Act is amended to read as
18 follows:

19 “(A) lumber of American Lumber Standards
20 Grades of Number 3 dimension or better, or Pacific
21 Lumber Inspection Bureau Export R-List Grades of
22 Number 3 common or better;”.

23 (b) Section 17(a) of the Act (50 U.S.C. App. 2416(a)) is
24 amended by striking out “Nothing” and inserting in lieu
25 thereof “Except as otherwise provided in this Act, nothing”.

1 (c) Section 17 of the Act is further amended by adding
2 at the end thereof the following:

3 “(f) AGRICULTURAL ACT OF 1970.—Nothing in this
4 Act shall affect the provisions of the last sentence of section
5 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).”.

6 (d) Section 38(e) of the Arms Export Control Act (22
7 U.S.C. 2778(e)) is amended by striking out “(f)” and insert-
8 ing in lieu thereof “(g)”.

9 AUTHORIZATION OF APPROPRIATIONS

10 SEC. 122. (a) Section 18 of the Act (50 U.S.C. App.
11 2417) is amended to read as follows:

12 “AUTHORIZATION OF APPROPRIATIONS

13 “SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGIS-
14 LATION.—(1) Notwithstanding any other provision of law,
15 money appropriated to the Department of Commerce for ex-
16 penses to carry out the purposes of this Act may be obligated
17 or expended only if—

18 “(A) the appropriation thereof has been previously
19 authorized by law enacted on or after the date of the
20 enactment of the Export Administration Amendments
21 Act of 1983; or

22 “(B) the amount of all such obligations and ex-
23 penditures does not exceed an amount previously pre-
24 scribed by law enacted on or after such date.

1 “(2) To the extent that legislation enacted after the
2 making of an appropriation to carry out the purposes of this
3 Act authorizes the obligation or expenditure thereof, the limi-
4 tation contained in paragraph (1) shall have no effect.

5 “(3) The provisions of this subsection shall not be super-
6 seded except by a provision of law enacted after the date of
7 the enactment of the Export Administration Amendments
8 Act of 1983 which specifically repeals, modifies, or super-
9 sedes the provisions of this subsection.

10 “(b) AUTHORIZATION.—There are authorized to be ap-
11 propriated to the Department of Commerce to carry out the
12 purposes of this Act—

13 “(1) \$24,600,000 for each of the fiscal years
14 1984 and 1985, of which for each such fiscal year
15 \$15,000,000 shall be available only for enforcement,
16 \$2,100,000 shall be available only for foreign availabil-
17 ity assessments under subsections (f) and (h)(6) of sec-
18 tion 5 of this Act, and \$7,500,000 shall be available
19 for all other activities under this Act; and

20 “(2) such additional amounts for each such fiscal
21 year as may be necessary for increases in salary, pay,
22 retirement, other employee benefits authorized by law,
23 and other nondiscretionary costs.”.

24 (b) The amendment made by subsection (a) shall take
25 effect on October 1, 1983.

1 **TERMINATION OF AUTHORITY**

2 **SEC. 123.** Section 20 of the Act (50 U.S.C. App. 2419)
3 is amended to read as follows:

4 **“TERMINATION DATE**

5 **“SEC. 20.** The authority granted by this Act terminates
6 on September 30, 1985.”.

7 **HOURS OF OFFICE OF EXPORT ADMINISTRATION**

8 **SEC. 124.** The Secretary shall modify the office hours of
9 the Office of Export Administration of the Department of
10 Commerce on at least four days of each workweek so as to
11 accommodate communications to the Office by exporters
12 throughout the continental United States during the normal
13 business hours of those exporters. The Secretary of Com-
14 merce shall conduct a study to determine the feasibility of
15 using computer terminals located at ports and other points of
16 exit from and entry into the United States in order to facili-
17 tate relevant agency interaction and to reduce delays in the
18 issuance of export licenses under the Export Administration
19 Act of 1979.

20 **TITLE II—EXPORT PROMOTION PROGRAMS**

21 **REQUIREMENT OF PRIOR AUTHORIZATION**

22 **SEC. 201.** (a) Notwithstanding any other provision of
23 law, money appropriated to the Department of Commerce for
24 expenses to carry out any export promotion program may be
25 obligated or expended only if—

1 (1) the appropriation thereof has been previously
2 authorized by law enacted on or after the date of the
3 enactment of this Act; or

4 (2) the amount of all such obligations and expend-
5 itures does not exceed an amount previously prescribed
6 by law enacted on or after such date.

7 (b) To the extent that legislation enacted after the
8 making of an appropriation to carry out any export promotion
9 program authorizes the obligation or expenditure thereof, the
10 limitation contained in subsection (a) shall have no effect.

11 (c) The provisions of this section shall not be superseded
12 except by a provision of law enacted after the date of the
13 enactment of this Act which specifically repeals, modifies, or
14 supersedes the provisions of this section.

15 (d) For purposes of this title, the term "export promo-
16 tion program" means any activity of the Department of Com-
17 merce designed to stimulate or assist United States business-
18 es in marketing their goods and services abroad competitively
19 with businesses from other countries, including but not limit-
20 ed to—

21 (1) trade development (except for the trade adjust-
22 ment assistance program) and dissemination of foreign
23 marketing opportunities and other marketing informa-
24 tion to United States producers of goods and services,
25 including the expansion of foreign markets for United

1 States textiles and apparel and any other United States
2 products;

3 (2) the development of regional and multilateral
4 economic policies which enhance United States trade
5 and investment interests, and the provision of market-
6 ing services with respect to foreign countries and re-
7 gions;

8 (3) the exhibition of United States goods in other
9 countries;

10 (4) the operations of the United States Commer-
11 cial Service and the Foreign Commercial Service, or
12 any successor agency; and

13 (5)(a) establishment of a cooperative program, on
14 a demonstration basis with the Department of Trans-
15 portation, consistent with provisions of this Act, the
16 International Aviation Facilities Act, the Federal Avi-
17 ation Act of 1958, and United States foreign policy
18 goals to:

19 (i) initiate technical assistance programs with
20 the aviation authorities of other governments; and

21 (ii) initiate programs to assist United States
22 firms in their efforts to export aerospace products
23 and services. Such programs may include, but are
24 not limited to:

53

1 (A) use of United States firms in techni-
2 cal assistance programs initiated with foreign
3 governments;

4 (B) assisting United States firms to pre-
5 pare and submit proposals to foreign govern-
6 ments or foreign aviation concerns;

7 (C) providing technical consultation and
8 project management assistance to United
9 States firms once foreign governments or
10 aviation concerns have awarded contracts to
11 United States firms; and

12 (D) assisting United States private
13 sector civil aviation entities to develop train-
14 ing programs, by providing Federal Aviation
15 Administration safety information, education-
16 al material, and advice.

17 (b) the Secretary shall report to the Congress not
18 later than April 30, 1985, on the implementation of
19 this program making recommendations on the advis-
20 ability of its continuation and expansion to involve
21 other sectors of the economy and Federal departments
22 or agencies.

23 **AUTHORIZATION OF APPROPRIATIONS**

24 **SEC. 202.** There is authorized to be appropriated for
25 each of the fiscal years 1984 and 1985 to the Department of

1 Commerce to carry out export promotion programs
2 \$100,458,000.

3 BARTER ARRANGEMENTS

4 SEC. 203. (a) The President shall, not later than one
5 hundred eighty days after the date of the enactment of this
6 Act, submit to the Congress a contingency plan for the pro-
7 motion of exports of agricultural commodities through the
8 bartering of surplus agricultural commodities produced in the
9 United States for petroleum and petroleum products, and for
10 other materials vital to the national interest, which are pro-
11 duced abroad, and make recommendations as to the feasibil-
12 ity of implementing such bartering.

13 (b) Notwithstanding any other provision of law, the
14 President is authorized—

15 (1) to barter stocks of agricultural commodities ac-
16 quired by the Government for petroleum and petroleum
17 products, and for other materials vital to the national
18 interest, which are produced abroad, in situations in
19 which sales would otherwise not occur; and

20 (2) to purchase petroleum and petroleum products,
21 and other materials vital to the national interest, which
22 are produced abroad and acquired by persons in the
23 United States through barter for agricultural commod-
24 ities produced in and exported from the United States
25 through normal commercial trade channels.

1 (c) The President shall take steps to insure that any
2 barters described in subsections (a) and (b)(1) and any pur-
3 chases authorized by subsection (b)(2) safeguard existing
4 export markets for agricultural commodities operating on
5 conventional business terms from displacement by barters de-
6 scribed in subsections (a), (b)(1), and (b)(2).

7 **TITLE III—SOUTH AFRICA**

8 **SHORT TITLE**

9 **SEC. 301.** This title may be cited as the “United States
10 Policy Toward South Africa Act of 1983”.

11 **SUBTITLE 1—LABOR STANDARDS**

12 **ENDORSEMENT AND IMPLEMENTATION OF FAIR**

13 **EMPLOYMENT PRINCIPLES**

14 **SEC. 311.** Any United States person who—

15 (1) has a branch or office in South Africa, or

16 (2) controls a corporation, partnership, or other
17 enterprise in South Africa,

18 in which more than twenty people are employed shall take
19 the necessary steps to insure that, in operating such branch,
20 office, corporation, partnership, or enterprise, those principles
21 relating to employment practices set forth in section 312 of
22 this Act are implemented.

23 **STATEMENT OF PRINCIPLES**

24 **SEC. 312.** (a) The principles referred to in section 311
25 of this Act are as follows:

1 (1) Desegregating the races in each employment
2 facility, including—

3 (A) removing all race designation signs;

4 (B) desegregating all eating, rest, and work
5 facilities; and

6 (C) terminating all regulations which are
7 based on racial discrimination.

8 (2) Providing equal employment for all employees,
9 including—

10 (A) assuring that any health, accident, or
11 death benefit plans that are established are non-
12 discriminatory and open to all employees, whether
13 they are paid a salary or are compensated on an
14 hourly basis; and

15 (B) implementing equal and nondiscrimina-
16 tory terms and conditions of employment for all
17 employees, and abolishing job reservations, job
18 fragmentation, apprenticeship restrictions for
19 blacks and other nonwhites, and differential em-
20 ployment criteria, which discriminate on the basis
21 of race or ethnic origin.

22 (3) Establishing equal pay for all employees doing
23 equal or comparable work, including—

24 (A) establishing and implementing, as soon
25 as possible, a wage and salary structure which is

1 applied equally to all employees, regardless of
2 race, who are engaged in equal or comparable
3 work;

4 (B) reviewing the distinction between hourly
5 and salaried job classifications, and establishing
6 and implementing an equitable and unified system
7 of job classifications which takes into account such
8 review; and

9 (C) eliminating inequities in seniority and in-
10 grade benefits so that all employees, regardless of
11 race, who perform similar jobs are eligible for the
12 same seniority and ingrade benefits.

13 (4) Establishing a minimum wage and salary
14 structure based on a cost-of-living index which takes
15 into account the needs of employees and their families.

16 (5) Increasing, by appropriate means, the number
17 of blacks and other nonwhites in managerial, supervi-
18 sory, administrative, clerical, and technical jobs for the
19 purpose of significantly increasing the representation of
20 blacks and other nonwhites in such jobs, including—

21 (A) developing training programs that will
22 prepare substantial numbers of blacks and other
23 nonwhites for such jobs as soon as possible, in-
24 cluding—

1 (i) expanding existing programs and
2 forming new programs to train, upgrade, and
3 improve the skills of all categories of em-
4 ployees, and

5 (ii) creating on-the-job training pro-
6 grams and facilities to assist employees to
7 advance to higher paying jobs requiring
8 greater skills;

9 (B) establishing procedures to assess, identi-
10 fy, and actively recruit employees with potential
11 for further advancement;

12 (C) identifying blacks and other nonwhites
13 with high management potential and enrolling
14 them in accelerated management programs;

15 (D) establishing and expanding programs to
16 enable employees to further their education and
17 skills at recognized education facilities; and

18 (E) establishing timetables to carry out this
19 paragraph.

20 (6) Taking reasonable steps to improve the quality
21 of employees' lives outside the work environment with
22 respect to housing, transportation, schooling, recrea-
23 tion, and health, including—

24 (A) providing assistance to black and other
25 nonwhite employees for housing, health care,

1 transportation, and recreation either through the
2 provision of facilities or services or providing fi-
3 nancial assistance to employees for such purposes,
4 including the expansion or creation of in-house
5 medical facilities or other medical programs to im-
6 prove medical care for black and other nonwhite
7 employees and their dependents; and

8 (B) participating in the development of
9 programs that address the education needs of
10 employees, their dependents, and the local com-
11 munity.

12 (7) Recognizing labor unions and implementing
13 fair labor practices, including—

14 (A) recognizing the right of all employees,
15 regardless of racial or other distinctions, to self-
16 organization and to form, join, or assist labor or-
17 ganizations, freely and without penalty or reprisal,
18 and recognizing the right to refrain from any such
19 activity;

20 (B) refraining from—

21 (i) interfering with, restraining, or co-
22 ercing employees in the exercise of their
23 rights of self-organization under this para-
24 graph,

1 (ii) dominating or interfering with the
2 formation or administration of any labor or-
3 ganization, or sponsoring, controlling, or con-
4 tributing financial or other assistance to it,

5 (iii) encouraging or discouraging mem-
6 bership in any labor organization by discrimi-
7 nation in regard to hiring, tenure, promotion,
8 or other condition of employment,

9 (iv) discharging or otherwise disciplining
10 or discriminating against any employee who
11 has exercised any rights of self-organization
12 under this paragraph, and

13 (v) refusing to bargain collectively with
14 any organization freely chosen by employees
15 under this paragraph;

16 (C) allowing employees to exercise rights of
17 self-organization, including solicitation of fellow
18 employees during nonworking hours, allowing dis-
19 tribution and posting of union literature by em-
20 ployees during nonworking hours in nonworking
21 areas, and allowing reasonable access to labor or-
22 ganization representatives to communicate with
23 employees on employer premises at reasonable
24 times;

1 (D) allowing employee representatives to
2 meet with employer representatives during work-
3 ing hours without loss of pay for purposes of col-
4 lective bargaining, negotiation of agreements, and
5 representation of employee grievances;

6 (E) regularly informing employees that it is
7 company policy to consult and bargain collectively
8 with organizations which are freely elected by the
9 employees to represent them; and

10 (F) utilizing impartial persons mutually
11 agreed upon by employer and employee repre-
12 sentatives to resolve disputes concerning election
13 of representatives, negotiation of agreements or
14 grievances arising thereunder, or any other mat-
15 ters arising under this paragraph.

16 (b) The Secretary may issue guidelines and criteria to
17 assist persons who are or may be subject to this subtitle in
18 complying with the principles set forth in subsection (a) of
19 this section. The Secretary may, upon request, give an advi-
20 sory opinion to any person who is or may be subject to this
21 subtitle as to whether that person is subject to this subtitle or
22 would be considered to be in compliance with the principles
23 set forth in subsection (a).

1 ADVISORY COUNCILS

2 SEC. 313. (a) The Secretary shall establish in South
3 Africa an Advisory Council (1) to advise the Secretary with
4 respect to the implementation of those principles set forth in
5 section 312(a), and (2) to review periodically the reports sub-
6 mitted pursuant to section 314(a) and, where necessary, to
7 supplement the information contained in such reports. The
8 Advisory Council shall be composed of ten members appoint-
9 ed by the Secretary from among persons representing trade
10 unions committed to nondiscriminatory policies, the United
11 States Chamber of Commerce in South Africa, and the South
12 African academic community, and from among South African
13 community and church leaders who have demonstrated a con-
14 cern for equal rights. In addition to the ten appointed mem-
15 bers of the Advisory Council, the United States Ambassador
16 to South Africa shall be a member of the Advisory Council,
17 ex officio.

(b) The Secretary shall establish in the United States an American Advisory Council to make policy recommendations with respect to the labor practices of United States persons in South Africa and to review periodically the progress of such persons in carrying out the provisions of section 311 of this Act. The American Advisory Council shall be composed of 11 members appointed by the Secretary from among qualified persons, including officers and employees of the Depart-

1 ment of State, the Department of Commerce, the Depart-
2 ment of Labor, and the Equal Employment Opportunity
3 Commission, and representatives of labor, business, civil
4 rights, and religious organizations. The Secretary shall pub-
5 lish in the Federal Register any recommendations made by
6 the American Advisory Council under this subsection.

7 (c) Members of the Advisory Council in South Africa
8 and of the American Advisory Council shall be appointed for
9 3-year terms, except that of the members first appointed,
10 three on each Council shall be appointed for terms of two
11 years, and three on each Council shall be appointed for terms
12 of one year, as designated at the time of their appointment.
13 Any member appointed to fill a vacancy occurring before the
14 expiration of the term for which the predecessor of such
15 member was appointed shall be appointed only for the re-
16 mainder of such term.

17 (d) The United States Ambassador to South Africa shall
18 provide to the Advisory Council in South Africa the neces-
19 sary clerical and administrative assistance. The Secretary
20 shall provide such assistance to the American Advisory
21 Council.

22 (e) Members of the Advisory Council in South Africa
23 and of the American Advisory Council shall serve without
24 pay, except that, while away from their homes or regular
25 places of business in the performance of services for the re-

1 spective Councils, members of the Advisory Councils shall be
2 allowed travel expenses, including per diem in lieu of subsist-
3 ence, in the same manner as persons employed intermittently
4 in the Government service are allowed expenses under sec-
5 tion 5703 of title 5, United States Code.

6 ENFORCEMENT; SANCTIONS

7 SEC. 314. (a) Each United States person referred to in
8 section 311 of this Act shall submit to the Secretary (1) a
9 detailed and fully documented annual report on the progress
10 of that person in complying with the provisions of this subti-
11 tle, and (2) such other information as the Secretary deter-
12 mines is necessary.

13 (b) In order to insure compliance with this subtitle and
14 any regulations issued to carry out this subtitle, the
15 Secretary—

16 (1) shall establish mechanisms to monitor such
17 compliance, including onsite monitoring with respect to
18 each United States person referred to in section 311 of
19 this Act at least once in every two-year period;

20 (2) shall make reasonable efforts within a reason-
21 able period of time to secure such compliance by
22 means of conference, conciliation, mediation, and per-
23 suasion;

24 (3) shall, in any case in which the Secretary has
25 reason to believe that any person has furnished the

1 Secretary with false information relating to the provi-
2 sions of this subtitle, recommend to the Attorney Gen-
3 eral that criminal proceedings be brought against such
4 person; and

5 (4) may conduct investigations, hold hearings, ad-
6 minister oaths, examine witnesses, receive evidence,
7 take depositions, and require by subpoena the attend-
8 ance and testimony of witnesses and production of all
9 books, papers, and documents relating to any matter
10 under investigation.

11 (c) The Secretary shall, within ninety days after giving
12 notice and an opportunity for a hearing to each United States
13 person referred to in section 311 of this Act, make a determi-
14 nation with respect to the compliance of that United States
15 person with the provisions of this subtitle and any regulations
16 issued to carry out this subtitle.

17 (d)(1) Any United States person with respect to whom
18 the Secretary makes a determination under subsection (c) or
19 (f) of this section either that the person is not in compliance
20 with this subtitle or any regulations issued to carry out this
21 subtitle, or that the compliance of the person with this subti-
22 tle or those regulations cannot be established on account of a
23 failure to provide information to the Secretary or on account
24 of the provision of false information to the Secretary, may not

1 export any goods or technology directly or indirectly to South
2 Africa.

3 (2)(A) In addition to the penalties set forth in paragraph
4 (1), the Secretary may impose upon any United States person
5 subject to those penalties—

6 (i) if other than an individual, a fine of not more
7 than \$1,000,000, or

8 (ii) if an individual, a fine of not more than
9 \$50,000.

10 (B)(i) Any officer, director, or employee of a United
11 States person subject to the penalties set forth in subpara-
12 graph (A), or any individual in control of that United States
13 person, who knowingly and willfully ordered, authorized, ac-
14 quiesced in, or carried out the act or practice constituting the
15 violation involved and (ii) any agent of such United States
16 person who knowingly and willfully carried out such act or
17 practice, shall be subject to a fine, imposed by the Secretary,
18 of not more than \$10,000.

19 (C) A fine imposed under subparagraph (B) may not be
20 paid, directly or indirectly, by the United States person com-
21 mitting the violation involved.

22 (D) The payment of any fine imposed under this para-
23 graph shall be deposited in the miscellaneous receipts of the
24 Treasury. In the event of the failure of any person to pay a
25 fine imposed under this paragraph, the fine may be recovered

1 in a civil action in the name of the United States brought by
2 the Secretary in an appropriate United States district court.

3 (3) Any United States person who exports any goods or
4 technology in violation of paragraph (1) of this subsection
5 shall, in addition to any other penalty specified in this subti-
6 tle, be fined, for each such violation, not more than five times
7 the value of the exports involved or \$50,000, whichever is
8 greater, or imprisoned not more than five years, or both. For
9 purposes of paragraph (1) and this paragraph, "goods" and
10 "technology" have the same meanings as are given those
11 terms in paragraphs (3) and (4) of section 16 of the Export
12 Administration Act of 1979 (50 U.S.C. App. 2415).

13 (e) The Secretary shall issue an order carrying out any
14 penalty imposed under paragraph (1) or (2) of subsection (d).

15 (f)(1) The Secretary shall, at least once in every two-
16 year period, review and, in accordance with subsection (c),
17 make a redetermination with respect to the compliance of
18 each United States person referred to in section 311 of this
19 Act with the provisions of this subtitle and any regulations
20 issued to carry out this subtitle.

21 (2) In the case of any United States person with respect
22 to whom the Secretary makes a determination under subsec-
23 tion (c) or paragraph (1) of this subsection either that the
24 person is not in compliance with this subtitle or any regula-
25 tions issued to carry out this subtitle, or that the compliance

1 of the person with this subtitle or those regulations cannot be
2 established on account of a failure to provide information to
3 the Secretary or on account of the provision of false informa-
4 tion to the Secretary, the Secretary shall, upon the request of
5 that person and after giving that person an opportunity for a
6 hearing, review and redetermine that person's compliance
7 within sixty days after that person files the first annual report
8 pursuant to subsection (a) of this section after the negative
9 determination is made.

10 (g) Any United States person aggrieved by a determina-
11 tion of the Secretary under subsection (c) or (f) of this section
12 may seek judicial review of that determination in accordance
13 with the provisions of chapter 7 of title 5, United States
14 Code.

15 (h) The Secretary shall submit an annual report to the
16 Congress on the compliance of those United States persons
17 referred to in section 311 of this Act with the provisions of
18 this subtitle.

19 REGULATIONS

20 SEC. 315. (a) The Secretary shall, after consulting with
21 the Advisory Councils established pursuant to section 313 of
22 this Act, issue such regulations as are necessary to carry out
23 this subtitle. Such regulations shall be issued not later than
24 one hundred and eighty days after the date of the enactment
25 of this Act. The Secretary shall establish dates by which

1 United States persons must comply with the different provi-
2 sions of this subtitle, except that the date for compliance with
3 all the provisions of this subtitle shall not be later than one
4 year after the date of the enactment of this Act.

5 (b) Before issuing final regulations pursuant to subsec-
6 tion (a), the Secretary shall publish in the Federal Register
7 the regulations proposed to be issued and shall give interest-
8 ed persons at least thirty days to submit comments on the
9 proposed regulations. The Secretary shall, in issuing the final
10 regulations, take into account the comments so submitted.

11 WAIVER OR TERMINATION OF PROVISIONS

12 SEC. 316. (a) In any case in which the President deter-
13 mines that compliance by a United States person with the
14 provisions of this subtitle would harm the national security of
15 the United States, the President may waive those provisions
16 with respect to that United States person if the President
17 publishes each waiver in the Federal Register and submits
18 each waiver and the justification for the waiver to the Con-
19 gress and if the Congress enacts a joint resolution approving
20 the waiver.

21 (b) Upon a written determination by the President that
22 the Government of South Africa has terminated its practice
23 of systematic racial discrimination and allows all the people
24 of South Africa, regardless of race or ethnic origin, to partici-
25 pate fully in the social, political, and economic life in that

1 country, the provisions of this subtitle and any regulations
2 issued to carry out this subtitle shall cease to be effective.

3 Subtitle 2—Prohibition on Loans and Importation of Gold
4 Coins

5 LOANS TO SOUTH AFRICA

6 SEC. 321. (a) No bank operating under the laws of the
7 United States may make any loan directly or through a for-
8 eign subsidiary to the South African Government or to any
9 corporation, partnership, or other organization which is
10 owned or controlled by the South African Government, as
11 determined under regulations issued by the Secretary. The
12 prohibition contained in this subsection shall not apply to
13 loans for educational, housing, or health facilities which are
14 available to all persons on a totally nondiscriminatory basis
15 and which are located in geographic areas accessible to all
16 population groups without any legal or administrative restric-
17 tion.

18 (b) The prohibition contained in subsection (a) of this
19 section shall not apply to any loan or extension of credit for
20 which an agreement is entered into before the date of the
21 enactment of this Act.

22 GOLD COINS

23 SEC. 322. No person, including any bank operating
24 under the laws of the United States, may import into the
25 United States any South African krugerrand or any other

1 gold coin minted in South Africa or offered for sale by the
2 South African Government.

3 ENFORCEMENT; PENALTIES

4 SEC. 323. (a) The Secretary, in consultation with the
5 Secretary of the Treasury and the Secretary of Commerce,
6 shall take the necessary steps to insure compliance with the
7 provisions of this subtitle, including—

8 (1) issuing such regulations as the Secretary con-
9 sider necessary to carry out this subtitle;

10 (2) establishing mechanisms to monitor compliance
11 with the provisions of this subtitle and any regulations
12 issued pursuant to paragraph (1) of this subsection;

13 (3) in any case in which the Secretary has reason
14 to believe that a violation of this subtitle has occurred
15 or is about to occur, referring the matter to the Attor-
16 ney General for appropriate action; and

17 (4) in any case in which the Secretary has reason
18 to believe that any person has furnished the Secretary
19 with false information relating to the provisions of this
20 subtitle, referring the matter to the Attorney General
21 for appropriate action.

22 (b)(1) Any person, other than an individual, that violates
23 section 321 or 322 of this Act shall be fined not more than
24 \$1,000,000.

1 (2) Any individual who violates section 321 of this Act
2 shall be fined not more than \$50,000, or imprisoned not more
3 than five years, or both.

4 (3) Any individual who violates section 322 of this Act
5 shall be fined not more than five times the value of the kru-
6 gerrands or gold coins involved.

7 (c)(1) Whenever a person other than an individual vio-
8 lates section 321 or 322 of this Act—

9 (A) any officer, director, or employee of such
10 person, or any natural person in control of such person,
11 who knowingly and willfully ordered, authorized, ac-
12 quiesced in, or carried out the act or practice constitut-
13 ing the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice, shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

(2) A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

22 WAIVER BY PRESIDENT

23 SEC. 324. The President may waive the prohibitions
24 contained in sections 321 and 322 of this Act for a period of
25 not more than one year if the President determines that the

1 Government of South Africa has made substantial progress
2 toward the full participation of all the people of South Africa
3 in the social, political, and economic life in that country and
4 toward an end to discrimination based on race or ethnic
5 origin, if the President submits any such determination, and
6 the basis for the determination, to the Congress, and if the
7 Congress enacts a joint resolution approving the determina-
8 tion.

SUBTITLE 3—INVESTMENT IN SOUTH AFRICA

PROHIBITION

SEC. 331. The President shall, not later than 90 days after the date of the enactment of this Act, issue regulations prohibiting any United States person from making any investment in South Africa. For purposes of the preceding sentence, the term “investment” means—

(1) establishing or making a loan or other extension of credit for the establishment of a business enterprise in South Africa, including a subsidiary, affiliate, branch, or office in South Africa; and

(2) investing funds in an existing enterprise in South Africa, including making a loan or other extension of credit, except that this paragraph shall not be construed to prohibit—

24 (A) an investment which consists of earnings
25 derived from an enterprise in South Africa estab-

1 lished before the date of the enactment of this Act
2 and which is made in that enterprise; or
3 (B) the purchase of securities on a securities
4 exchange.

5 The President may issue such licenses or orders as are neces-
6 sary to carry out this section.

7 **ENFORCEMENT; PENALTIES**

8 SEC. 332. (a) The President shall take the necessary
9 steps to insure compliance with the regulations issued pursu-
10 ant to section 331, including establishing mechanisms to
11 monitor compliance with such regulations. The President
12 may also hold hearings, issue subpoenas, administer oaths, ex-
13 amine witnesses, receive evidence, take depositions, and re-
14 quire by subpoena the attendance and testimony of witnesses
15 and production of all books, papers, and documents relating
16 to any matter under investigation.

17 (b)(1) Any United States person, other than an individu-
18 al, that violates the regulations issued pursuant to section
19 331 of this Act or any license or order issued under this
20 subtitle shall be fined not more than \$1,000,000.

21 (2) Any individual who violates the regulations issued
22 pursuant to section 331 of this Act or any license or order
23 issued under this subtitle shall be fined not more than
24 \$50,000, or imprisoned not more than five years, or both.

1 (c)(1) Whenever a United States person violates the reg-
2 ulations issued pursuant to section 331 of this Act or any
3 license or order issued under this subtitle—

4 (A) any officer, director, or employee of such
5 person, or any natural person in control of such person
6 who knowingly and willfully ordered, authorized, ac-
7 quiesced in, or carried out the act or practice constitut-
8 ing the violation, and

9 (B) any agent of such person who knowingly and
10 willfully carried out such act or practice,
11 shall, upon conviction, be fined not more than \$10,000, or
12 imprisoned not more than five years, or both.

13 (2) A fine imposed under paragraph (1) on an individual
14 for an act or practice constituting a violation may not be
15 paid, directly or indirectly, by the United States person com-
16 mitting the violation itself.

17 **TERMINATION OF PROHIBITION**

18 **SEC. 333.** If the President determines that the Govern-
19 ment of South Africa has made substantial progress toward
20 the full participation of all the people of South Africa in the
21 social, political, and economic life in that country and toward
22 an end to discrimination based on race or ethnic origin, the
23 President shall submit that determination, and the basis
24 therefor, to the Congress. The regulations issued pursuant to
25 this subtitle, and any license or order issued under this subti-

1 tle, shall terminate upon enactment of a joint resolution ap-
2 proving such determination.

3 SUBTITLE 4—GENERAL PROVISIONS

4 COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

5 SEC. 341. (a) Each department and agency of the
6 United States shall cooperate with the Secretary in carrying
7 out the provisions of this title, including, upon the request of
8 the Secretary, taking steps to insure compliance with the
9 provisions of this title and any regulations issued to carry out
10 this title.

11 (b) The Secretary may secure directly from any depart-
12 ment or agency of the United States information necessary to
13 enable the Secretary to carry out the Secretary's functions
14 under this title.

15 DEFINITIONS

16 SEC. 342. For purposes of this title—

17 (1) the term "United States person" means any
18 United States resident or national and any domestic
19 concern (including any permanent domestic establish-
20 ment of any foreign concern);

21 (2) the term "Secretary" means the Secretary of
22 State;

23 (3) the term "South Africa" includes the Republic
24 of South Africa; any territory under the administration,
25 legal or illegal, of South Africa; and the "bantustans"

1 or “homelands”, to which South African blacks are as-
2 signed on the basis of ethnic origin, including the
3 Transkei, Bophuthatswana, and Venda; and

4 (4) a United States person shall be presumed to
5 control a corporation, partnership, or other enterprise
6 in South Africa if—

7 (A) the United States person beneficially
8 owns or controls (whether directly or indirectly)
9 more than 50 per centum of the outstanding
10 voting securities of the corporation, partnership,
11 or enterprise;

12 (B) the United States person beneficially
13 owns or controls (whether directly or indirectly)
14 25 per centum or more of the voting securities of
15 the corporation, partnership, or enterprise, if no
16 other person owns or controls (whether directly or
17 indirectly) an equal or larger percentage;

18 (C) the corporation, partnership, or enter-
19 prise is operated by the United States person pur-
20 suant to the provisions of an exclusive manage-
21 ment contract;

22 (D) a majority of the members of the board
23 of directors of the corporation, partnership, or en-
24 terprise are also members of the comparable gov-
25 erning body of the United States person;

1 (E) the United States person has authority to
2 appoint a majority of the members of the board of
3 directors of the corporation, partnership, or enter-
4 prise; or

5 (F) the United States person has authority to
6 appoint the chief operating officer of the corpora-
7 tion, partnership, or enterprise.

8 APPLICABILITY TO EVASIONS OF TITLE

9 SEC. 343. (a) Subtitle 1 of this title shall apply to any
10 United States person who undertakes or causes to be under-
11 taken any transaction or activity with the intent to evade the
12 provisions of subtitle 1 of this title or any regulations issued
13 to carry out that subtitle.

14 (b) Subtitle 2 of this title shall apply to any bank operat-
15 ing under the laws of the United States, or to any other
16 person, who or which undertakes or causes to be undertaken
17 any transaction or activity with the intent to evade the provi-
18 sions of subtitle 2 of this title or any regulations issued to
19 carry out that subtitle.

20 (c) The regulations issued pursuant to subtitle 3 of this
21 title shall apply to any United States person who undertakes
22 or causes to be undertaken any transaction or activity with
23 the intent to evade the provisions of those regulations.

1 **CONSTRUCTION OF TITLE; SEVERABILITY**

2 **SEC. 344.** (a) Nothing in this title shall be construed as
3 constituting any recognition by the United States of the
4 homelands referred to in section 342(3) of this Act.

5 (b) If any provision of this title or the application of this
6 title to any person or circumstance is held invalid, neither the
7 remainder of this title nor the application of that provision to
8 other persons or circumstances shall be affected thereby.

9 **TITLE IV—SOVIET UNION**

10 **GOLD COINS**

11 **SEC. 401.** No person, including any bank operating
12 under the laws of the United States, may import into the
13 United States any gold coin minted in the Soviet Union or
14 offered for sale by the Government of the Soviet Union.

15 **ENFORCEMENT; PENALTIES**

16 **SEC. 402.** (a) The Secretary, in consultation with the
17 Secretary of the Treasury and the Secretary of Commerce,
18 shall take the necessary steps to insure compliance with the
19 provisions of section 401, including—

20 (1) issuing such regulations as the Secretary con-
21 siders necessary to carry out section 401;

22 (2) establishing mechanisms to monitor compliance
23 with the provisions of section 401 and any regulations
24 issued pursuant to paragraph (1) of this subsection;

1 (3) in any case in which the Secretary has reason
2 to believe that a violation of section 401 has occurred
3 or is about to occur, referring the matter to the Attor-
4 ney General for appropriate action; and

5 (4) in any case in which the Secretary has reason
6 to believe that any person has furnished the Secretary
7 with false information relating to the provisions of sec-
8 tion 401, referring the matter to the Attorney General
9 for appropriate action.

10 (b)(1) Any person, other than an individual, that violates
11 section 401 of this Act shall be fined not more than
12 \$1,000,000.

13 (2) Any individual who violates section 401 of this Act
14 shall be fined not more than fives times the value of the gold
15 coins involved.

16 (c)(1) Whenever a person violates section 401 of this
17 Act—

18 (A) any officer, director, or employee of such
19 person, or any natural person in control of such person
20 who knowingly and willfully ordered, authorized, ac-
21 quiesced in, or carried out the act or practice constitut-
22 ing the violation, and

23 (B) any agent of such person who knowingly and
24 willfully carried out such act or practice,

1 shall, upon conviction, be fined not more than \$10,000, or
2 imprisoned not more than five years, or both.

3 (2) A fine imposed under paragraph (1) on an individual
4 for an act or practice constituting a violation may not be
5 paid, directly or indirectly, by the person committing the vio-
6 lation itself.

7 **APPLICABILITY TO EVASIONS OF TITLE**

8 **SEC. 403.** This title shall apply to any person who un-
9 dertakes or causes to be undertaken any transaction or activi-
10 ty with the intent to evade the provisions of this title or any
11 regulations issued to carry out this title.

12 **COOPERATION OF OTHER DEPARTMENTS AND AGENCIES**

13 **SEC. 404. (a)** Each department and agency of the
14 United States shall cooperate with the Secretary in carrying
15 out the provisions of this title, including, upon the request of
16 the Secretary, taking steps to insure compliance with the
17 provisions of this title and any regulations issued to carry out
18 this title.

19 **(b)** The Secretary may secure directly from any depart-
20 ment or agency of the United States information necessary to
21 enable the Secretary to carry out the Secretary's functions
22 under this title.

Attest: **BENJAMIN J. GUTHRIE,**
Clerk.

Calendar No. 509

98TH CONGRESS
1ST Session

H. R. 3231

AN ACT

To amend the authorities contained in the Export
Administration Act of 1979, and for other purposes.

OCTOBER 31, 1983

Received; read twice and placed on the calendar